

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

SAP KRAY,

Petitioner,

v.

BELINDA STEWART, *et al.*,

Respondents.

Case No. C06-5521RBL/KLS

REPORT AND
RECOMMENDATION TO DENY
APPLICATION TO PROCEED
IN FORMA PAUPERIS

Noted for: October 27, 2006

This case has been referred to Magistrate Judge Karen L. Strombom pursuant to 28 U.S.C. § 636(b)(1) and Local MJR 3 and 4. Petitioner is an inmate at Stafford Creek Correctional Center, located in Aberdeen, Washington. He filed an application to proceed *in forma pauperis* (Dkt. # 2), but has paid the \$5.00 filing fee. Accordingly, the court should deny the application.

DISCUSSION

A district court may permit indigent litigants to proceed *in forma pauperis* upon completion of a proper affidavit of indigency. See 28 U.S.C. § 1915(a). However, the court has broad discretion in denying an application to proceed in forma pauperis. Weller v. Dickson, 314 F.2d 598 (9th Cir. 1963), *cert. denied*, 375 U.S. 845 (1963).

On September 8, 2006, the Clerk received Petitioner's petition. (Dkt. # 1). On that same day, Petitioner paid the \$5.00 filing fee. On September 13, 2006, the Clerk received Petitioner's application to proceed *in forma pauperis*. (Dkt. # 2). Because he has paid the filing fee, Petitioner's application to

1 proceed *in forma pauperis* is moot.

2 CONCLUSION

3 Because Petitioner has paid the filing fee, the undersigned recommends that the Court deny his
4 application to proceed *in forma pauperis*.

5 Pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal Rules of Civil Procedure ("Fed. R.
6 Civ. P."), Petitioner shall have ten (10) days from service of this Report and Recommendation to file
7 written objections thereto. See also Fed. R. Civ. P. 6. Failure to file objections will result in a waiver of
8 those objections for purposes of appeal. Thomas v. Arn, 474 U.S. 140 (1985). Accommodating the time
9 limit imposed by Rule 72(b), the clerk is directed set this matter for consideration on **October 27, 2006**, as
10 noted in the caption.

11 DATED this 26th day of September, 2006.

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16 Karen L. Strombom
17 United States Magistrate Judge
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